

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
RICHARD PALMERO,

Plaintiff,

-against-

ANSWER

07 Civ. 11414 (CM)

METRO-NORTH COMMUTER RAILROAD,

Defendant.

-----X

Defendant, Metro-North Commuter Railroad (“Metro-North”), by its attorney, Richard K. Bernard, Esq., as and for its answer to the complaint of the plaintiff, alleges as follows, upon information and belief:

1. Denies upon information and belief each of the allegations contained in paragraph(s) 1 of the complaint and refers all questions of law and fact to judge and jury.
2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph(s) 2 of the complaint.
3. Admits the allegations contained in paragraph(s) 3 and 4 of the complaint.
4. Denies upon information and belief each of the allegations contained in paragraph(s) 5 of the complaint and refers all questions of law and fact to judge and jury, except admits that the plaintiff was employed by defendant as a conductor.
5. As to the allegations contained in paragraph(s) 6 and 10 defendant refers all questions of law and fact to judge and jury.
6. Denies the allegations contained in paragraph(s) 7, 8 and 9 of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

7. As and for a first affirmative defense, or as a defense in mitigation of damages, the defendant claims that any injuries allegedly sustained by the plaintiff were caused, in whole or in part, by reason of the culpable conduct of the plaintiff.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

8. As and for a second affirmative defense, the defendant claims that the plaintiff's complaint fails to state a claim upon which relief can be granted.

WHEREFORE, the defendant, Metro-North Commuter Railroad demands judgment dismissing the complaint, together with costs and disbursements and such other and further relief as to this Court seems just and proper.

Dated: New York, New York
January 31, 2008

RICHARD K. BERNARD
GENERAL COUNSEL

By: S/
José R. Rios – JRR/5785
Special Counsel
Attorneys for Defendant
347 Madison Avenue
New York, New York 10017
212-340-2537

TO: Thomas P. Hurley, Esq.
Law Offices of Kantor & Godwin, PLLC
Attorneys for Plaintiff
5800 Main Street
Williamsville, NY 14221
716-626-0404

STATE OF NEW YORK :
:ss:
COUNTY OF NEW YORK:

LAURA MATTHEWS, being duly sworn, deposes and says:

I am not a party to the action, am over 18 years of age and reside in New York.

On January 31, 2008, I served a true copy of the annexed Answer and Rule 7.1 Statement, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

TO: Thomas P. Hurley, Esq.
Law Offices of Kantor & Godwin, PLLC
Attorneys for Plaintiff
5800 Main Street
Williamsville, NY 14221
716-626-0404

S/
LAURA MATTHEWS

Sworn to before me this
31 day of January, 2008

S/
NOTARY PUBLIC

Palmero,Richard

